

JUL 23 2019
CLERK OF CIRCUIT COURT

IN THE CIRCUIT COURT OF OHIO COUNTY

July 23, 2019

Plaintiff
Charles Dennis Poling
51 Maryland St.
Wheeling, WV, 26003

Case No. 19-C-175

vs.

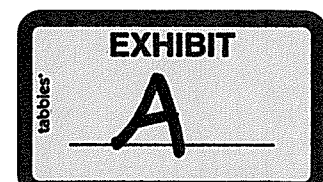
Defendants
Wise Services Inc.
P.O. Box 427/541 Hwy 413
Lyman, WY, 82937

Insured by
Zurich American Insurance Co.
Two Pierce Place
1299 Zurichway
Schaumburg, IL, 60196

Represented by
Gallagher Bassett Services
Reporting Branch: Liability (216) /
Office Location: Mechanicsburg, PA
Mailing Address: P.O. 2934, Clinton, IA 52733-2934

COMPLAINT

The evidence will show an employee or other individual given permission to operate a vehicle (known from here as #1) owned or leased by Wise Services Inc. a company serving the oil and gas industry based out of Lyman, WY 82937 displayed extreme reckless operation along with failure to maintain control by not stopping before slamming into the rear of a vehicle (known from here as #2) that I, Charles Dennis Poling, a resident of Wheeling, WV. was a passenger seated directly behind the driver and buckled in a car seat to my right, in the center, at the time, my 8 month old granddaughter with my daughter sitting next to her. At or around 1:30 pm on Saturday, August 5, 2017 at the first traffic signal entering the shopping center known as, The Highlands, located at 546 Cabela Dr, Triadelphia, WV 26059 the driver of vehicle #1 failed to maintain control by not stopping and slammed in to the rear end of vehicle #2 that was stopped at red light. Immediately and without warning following initial impact, driver put his vehicle #1 in reverse and began pulling vehicle #2 violently backwards causing a severe jerking and shaking motion to all passengers still seated in vehicle #2 demonstrating a willful and wanton disregard for the safety of others. During this time, I was reaching with my left arm trying to roll the window down while reaching with my right arm behind and down to my right side in an attempt to unlock my seat belt while screaming stop! stop!. After several attempts driver finally realized both vehicles 1 & 2 were locked together and his efforts were useless.



He emerged from his vehicle #1 admitting more than once he had no drivers license and was insisting that we move the vehicles 1 & 2 (still locked together) up around the turn and off the road, which we refused to do. He then preceded to work and (pictures) will show him using a jack to free the vehicles 1 & 2, stating all along that he wanted to leave the scene before police arrived.

He ultimately did get the vehicles 1 & 2 disconnected and blatantly showed disrespect for West Virginia Traffic laws by leaving the scene before the police arrived.

I informed the deputy at the scene about having periodic sudden stabbing back pain and if it got worse I would seek medical attention, later on that night along with the back pain, I started getting pain in my right shoulder which continued disrupting my sleep. On Monday August 7, 2017 I called my Doctor's office at the Family Medical Center in Wheeling Hospital and they set up an appointment for Monday August 14, 2017. The back pain subsided before my appointment and I informed the Doctor of that, but the shoulder pain stayed consistent along with loss of sleep. I was put on a treatment plan of physical therapy that lasted about 12 weeks given injections to relieve swelling and a prescription for pain. My last Doctor visit in December of 2017 I was still experiencing pain when raising, reaching or lifting but the constant pain seemed to be nearly gone. I was informed it could take months before all pain could be gone. I took it easy for several months to assist in healing then felt comfortable enough to start doing routine work around the house including gardening. On or around July 29, 2018 while lifting a planter I once again experienced extreme pain, discomfort and lack of full range of motion of the same right arm injured in the 2017 accident. I went back to Family Medical Center and again they prescribed physical therapy for several more weeks which failed to relieve the pain when raising, reaching and lifting but did restore some range of motion. Doctor then ordered an MRI in October, 2018 and because of the results I was referred to a surgeon. At the initial appointment in December 2018 I was told I needed surgery and they would try and set it up sometime in January 2019. I heard nothing for weeks so on or around January 28, 2019 I called their office and was told by a female employee that they needed additional information. I gave them the same information as in December. Several more weeks went by, no one scheduled me for surgery. I called their office again requesting what an estimate would be for surgery costs if the insurance is refusing to authorize payment for needed medical treatment including surgery. To this day through the assistance of other medical billing sources at Wheeling Hospital, I have been unable to get an estimate of surgery costs that I, as a patient may be responsible for.

I signed waivers with the other medical providers who informed me of estimated costs before being treated so I would have an idea of what my costs would be if insurance denies paying. I did not sign any agreement or letter of payment protection with anyone allowing my bills to be delayed for months while an insurance company decides if and when they are going to pay. I should have been notified by Gallagher Bassett Services (adjuster service hired by Zurich American Insurance Co.) within a reasonable amount of time after they received the initial bills for any treatment already completed along with any pending treatment such as surgery whether these bills would be covered or declined. After receiving the initial bills from Wheeling Hospital medical providers shortly after treatment. I was not sent past due or over due statements. Radiology Associates (who do their own billing) kept sending me two past due bills totaling \$332.00 which "I Paid". I assumed Gallagher Bassett Services who paid the 2017 bills had paid all the Wheeling Hospital Providers' bills of 2018 since I was not getting "Past Due" statements. I found out definitively on June 5, 2019 from Wheeling Hospital Billing Dept. that none of the bills from July through December 2018 were paid.

I sent at least three, more than fair, in writing, once by certified mail offers to settle to Joy Moser claims adjuster at Gallagher Bassett Services, all in vain as I received no written responses back from her indicating to me, she showed no willingness to negotiate a settlement in writing during those times.

As a result of the recklessness, gross negligence, blatant disregard for West Virginia laws demonstrating a willful and wanton disregard for the safety of others. either by an employee or other individual given permission to operate a vehicle owned or leased by Wise Services Inc, Insured by Zurich American Insurance Company. Plaintiff, Charles Dennis Poling has amassed Medical Bills totaling \$16,402.00, (some of which have been paid). Amount does not include any costs for pending surgery and physical therapy follow up as recommended by treating Physicians.

Total thus far \$16,402.00

Bills Paid by Gallagher Bassett Services \$5,004.25

Radiology Bills Paid by Charles Dennis Poling \$332.00

Out Standing Bills Not paid \$11,065.75

WHEREFORE, the Plaintiff, Charles Dennis Poling prays for judgment against any one of, or all Defendants, Wise Services Inc., Zurich American Insurance Co., Gallagher Bassett Services in such an amount of this Court's jurisdictional requisite as will fairly and adequately compensate the Plaintiff for injuries, losses and damages including pain and suffering, as herein above alleged, costs of suit, and any further relief which this Honorable Court finds fair and just.

Charles Dennis Poling, Plaintiff
Signed

Date 07/23/2019

IN THE CIRCUIT COURT OF

OHIO

COUNTY, WEST VIRGINIA

CIVIL CASE INFORMATION STATEMENT
(Civil Cases Other than Domestic Relations)

I. CASE STYLE:

Case No.

19-C-175

Plaintiff(s)

Judge:

JAC

Charles Dennis Poling
51 Maryland St.
Wheeling WV 26003

vs.

Days to
Answer

Type of Service

Defendant(s)

Wise Services Inc.

30

Certified mail

Name

P.O. Box 427/541 Hwy 413

Street Address

Lyman, W.V. 82937

City/State, Zip Code

II. TYPE OF CASE:

☐

General Civil

☐

Mass Litigation [As defined in T.C.R. 26.04(a)]

☐

Asbestos

☐

FELA Asbestos

☐

Other:

☐

Habeas Corpus/Other Extraordinary Writ

☒

Other: Auto accident Personal injury

☐

Adoption

☐

Administrative Agency Appeal

☐

Civil Appeal from Magistrate Court

☐

Miscellaneous Civil Petition

☐

Mental Hygiene

☐

Guardianship

☐

Medical Malpractice

III. JURY DEMAND:

☐

Yes

☒

No

CASE WILL BE READY FOR TRIAL BY (Month/Year):

/

IV. DO YOU OR ANY
OF YOUR CLIENTS

OR WITNESSES

IN THIS CASE

REQUIRE SPECIAL

ACCOMMODATIONS?

☐

Yes

☒

No

IF YES, PLEASE SPECIFY:

☐

Wheelchair accessible hearing room and other facilities

☐

Reader or other auxiliary aid for the visually impaired

☐

Interpreter or other auxiliary aid for the deaf and hard of hearing

☐

Spokesperson or other auxiliary aid for the speech impaired

☐

Foreign language interpreter-specify language:

☐

Other:

Attorney Name:

Firm:

Address:

Telephone:

Representing:

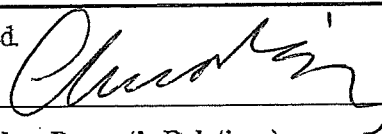
☐ Plaintiff☐ Defendant☐ Cross-Defendant☐ Cross-Complainant☐ 3rd-Party Plaintiff☐ 3rd-Party Defendant☒ Proceeding Without an Attorney

Original and _____ copies of complaint enclosed/attached.

Dated:

7/23/2013

Signature:



Plaintiff: _____, et al Case Number: _____
 vs. _____
 Defendant: _____, et al

**CIVIL CASE INFORMATION STATEMENT
 DEFENDANT(S) CONTINUATION PAGE**

Zurich American Insurance CO.
 Defendant's Name

Two Pience Place
 Street Address

Days to Answer: 30

1299 Zurichway
 City, State, Zip Code

Type of Service: _____

Schaumburg, IL 60196

Gallagher Bassett Services
 Defendant's Name

P.O. 2934
 Street Address

Days to Answer: 30

Clinton IA 52733-2934
 City, State, Zip Code

Type of Service: _____

Defendant's Name

Days to Answer: _____

Street Address

Type of Service: _____

City, State, Zip Code

Defendant's Name

Days to Answer: _____

Street Address

Type of Service: _____

City, State, Zip Code

Defendant's Name

Days to Answer: _____

Street Address

Type of Service: _____

City, State, Zip Code

Defendant's Name

Days to Answer: _____

Street Address

Type of Service: _____

City, State, Zip Code

Defendant's Name

Days to Answer: _____

Street Address

Type of Service: _____

City, State, Zip Code

SUMMONS

CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

**CHARLES DENNIS POLING
PLAINTIFF,**

VS.

**CIVIL ACTION NO. 19-C-175
JUDGE: JASON A. CUOMO**

**GALLAGHER BASSETT SERVICES
DEFENDANT.**

To the above named Defendant:

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby Summoned and required to serve upon, plaintiff, whose address is ,51 MARYLAND STREET, WHEELING, WV 26003, an answer including any related counterclaim you may have to the complaint filed against you in the above civil action, a true copy of which is herewith delivered to you. You are required to serve your answer within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above style civil action.

Brenda L. Miller

CLERK OF COURT

Dated: July 23, 2019

BY:

Nicole Leach

DEPUTY CLERK

Please Serve:

**GALLAGHER BASSETT SERVICES
PO 2934
CLINTON IA 52733-2934**



SUMMONS

CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

CHARLES DENNIS POLING
PLAINTIFF,

VS.

CIVIL ACTION NO. 19-C-175
JUDGE: JASON A. CUOMO

ZURICH AMERICAN INSURANCE COMPANY
DEFENDANT.

To the above named Defendant:

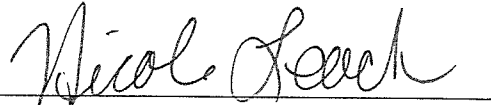
IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby Summoned and required to serve upon PRO SE, plaintiff's attorney, whose address is ,51 MARYLAND STREET, WHEELING, WV 26003 , an answer including any related counterclaim you may have to the complaint filed against you in the above civil action, a true copy of which is herewith delivered to you. You are required to serve your answer within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above style civil action.



CLERK OF COURT

Dated: July 23, 2019

BY:



DEPUTY CLERK

Please Serve:

ZURICH AMERICAN INSURANCE COMPANY
TWO PIERCE PLACE
1299 ZURICH WAY
SCHAUMBURG, IL 60196



SUMMONS

CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

CHARLES DENNIS POLING
PLAINTIFF,

VS.

CIVIL ACTION NO. 19-C-175
JUDGE: JASON A. CUOMO

WISE SERVICES INC
DEFENDANT.

To the above named Defendant:

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby Summoned and required to serve upon plaintiff whose address is ,51 MARYLAND ST, WHEELING, WV 26003, an answer including any related counterclaim you may have to the complaint filed against you in the above civil action, a true copy of which is herewith delivered to you. You are required to serve your answer within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above style civil action.

Brenda L. Miller

CLERK OF COURT

Dated: July 23, 2019

BY:

Nicole Seart

DEPUTY CLERK

Please Serve:
WISE SERVICES INC
PO BOX 427
LYMAN, WY 82937



OFFICE OF THE CIRCUIT CLERK

RECEIPT #: 96229

OHIO
1500 CHAPLINE ST.
WHEELING

DATE RECEIVED: 07/23/2019

RECEIVED FROM: CHARLES D POLING

TOTAL: \$314.00

STYLE OF CASE

CHARLES DENNIS POLING
VS.
WISE SERVICES INC

CASE #: 19-C-175

IN PAYMENT OF FILING, 3 DEF, 3 CM, COPIES
BY Check 714BRENDA L MILLER
CLERK OF THE CIRCUIT COURTBY 

7019 0160 0000 1588 8554

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only	
For delivery information, visit our website at www.usps.com ®.	
OFFICIAL USE	
Certified Mail Fee \$ _____	Postmark Here
Extra Services & Fees (check box, add fee as appropriate) <input type="checkbox"/> Return Receipt (hardcopy) \$ _____ <input type="checkbox"/> Return Receipt (electronic) \$ _____ <input type="checkbox"/> Certified Mail Restricted Delivery \$ _____ <input type="checkbox"/> Adult Signature Required \$ _____ <input type="checkbox"/> Adult Signature Restricted Delivery \$ _____	
Postage \$ _____	
Total Postage and Fees \$ _____	
Sent To <u>Zurich American Insurance Co.</u> Street and Apt. No., or PO Box No. <u>Two Prince Place 299 Zurich way</u> City, State, ZIP+4® <u>Schaumburg IL 60196</u> PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	

7019 0160 0000 1588 8578

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only	
For delivery information, visit our website at www.usps.com ®.	
OFFICIAL USE	
Certified Mail Fee \$ _____	Postmark Here
Extra Services & Fees (check box, add fee as appropriate) <input type="checkbox"/> Return Receipt (hardcopy) \$ _____ <input type="checkbox"/> Return Receipt (electronic) \$ _____ <input type="checkbox"/> Certified Mail Restricted Delivery \$ _____ <input type="checkbox"/> Adult Signature Required \$ _____ <input type="checkbox"/> Adult Signature Restricted Delivery \$ _____	
Postage \$ _____	
Total Postage and Fees \$ _____	
Sent To <u>GALLAGHER Bassett Services</u> Street and Apt. No., or PO Box No. <u>PO Box 2934</u> City, State, ZIP+4® <u>Clinton IA 52733</u> PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	

7019 0160 0000 1588 8561

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only	
For delivery information, visit our website at www.usps.com ®.	
OFFICIAL USE	
Certified Mail Fee \$ _____	Postmark Here
Extra Services & Fees (check box, add fee as appropriate) <input type="checkbox"/> Return Receipt (hardcopy) \$ _____ <input type="checkbox"/> Return Receipt (electronic) \$ _____ <input type="checkbox"/> Certified Mail Restricted Delivery \$ _____ <input type="checkbox"/> Adult Signature Required \$ _____ <input type="checkbox"/> Adult Signature Restricted Delivery \$ _____	
Postage \$ _____	
Total Postage and Fees \$ _____	
Sent To <u>Wise Services Inc.</u> Street and Apt. No., or PO Box No. <u>PO Box 427</u> City, State, ZIP+4® <u>Lyman WY 82937</u> PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	

Case #
19-C-175

U.S. MAIL
FIRST CLASS PERMIT NO. 1234
CITY OF CINCINNATI, OHIO

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature X <i>Travis Nielsen</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>WISE SERVICES INC PO BOX 427/541 HWY 413 LYMAN WY 82937</p>		<p>B. Received by (Printed Name) <i>TRAVIS NIELSEN</i></p>	
		<p>C. Date of Delivery <i>7/26/19</i></p>	
		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>9590 9402 4912 9032 7358 83</p> <p>119 0160 0000 1588 8561</p>		<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™</p> <p><input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail</p> <p><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p>	

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

3-4

19-C-175

POL-51 113 #2019-07
DATE OF CIRCUIT COURT**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

GALLAGHER BASSETT SERVICES
PO BOX 2934
CLINTON IA 52733

19-C-175



9590 9402 4912 9032 7358 69

7019 0160 0000 1588 8578

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

JUL 26 2019

D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

3. Service Type

☐ Adult Signature☐ Adult Signature Restricted Delivery☐ Certified Mail®☒ Certified Mail Restricted Delivery☐ Collect on Delivery☐ Collect on Delivery Restricted Delivery☐ Insured Mail☐ Insured Mail Restricted Delivery (over \$500)☐ Priority Mail Express®☐ Registered Mail™☐ Registered Mail Restricted Delivery☒ Return Receipt for Merchandise☐ Signature Confirmation™☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

T-10

502113-1210
ONE WAY STREET ONLY

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

ZURICH AMERICAN INSURANCE CO.
TWO PIERCE PLACE
1299 ZURICH WAY
SCHAUMBURGH IL 60196

19-C-175



9590 9402 4912 9032 7358 76

019 0160 0000 1588 8554

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Andrew Pietka

☐ Agent☐ Addressee

B. Received by (Printed Name)

ANDREW PIETKA

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☒ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☒ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

PS Form 3811, July 2015 PSN 7530-02-000-9053

7 X

CASE 19-C-175

OHIO

PAGE 0001

CHARLES DENNIS POLING

VS. WISE SERVICES INC

LINE	DATE	ACTION
------	------	--------

1	07/23/19	COMPLAIN; MEMO; SUMMONS ID BY CM TO WISE SERVICES INC, ZURICH
2		AMERICAN INSURANCE CO, & GALLAGHER BASSETT SERVICES; RECIEPT
3	07/29/19	R/S CMC ID TO WISE SERVICE INC. SIGNED BY TRAVIS NIELSEN ON
4		7/26/19

RECEIVED TO BE A TRUE AND CORRECT
COPY OF THE ORIGINAL